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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,189	09/13/2000	Hannes Eberle	53470.000038	8016

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EXAMINER

NOLAN, DANIEL A

ART UNIT PAPER NUMBER

2655

DATE MAILED: 01/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/661,189

Applicant(s)

EBERLE ET AL.

Examiner

Daniel A. Nolan

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

(Note that as of October 1, 2002 a new **Art Unit 2655** was established that includes this application, and that this new AU number should be used in all future correspondence.)

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Information Disclosure Statement

2. Various references listed in the information disclosure statement filed 13 December 2002 fail to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because dates have not been provided for the documents indicated on the USPTO form 1449, at least as to month and year. These undated references have been placed in the application file with the considered references, but the information referred to therein has not been considered as to the merits.

Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Drawings

3. The corrected or substitute drawings were received on 13 December 2002.

These drawings are accepted and the respective objections are withdrawn as satisfied.

Response to Amendment

4. The response filed 13 December 2002 was entered to the following effect:

- The specification was changed as indicated and all objections are withdrawn as satisfied.
- The changes to the specification that were made in support of the replacement drawings further satisfied the remaining objections.
- The claims were changed as indicated and examined on the merits.

Response to Arguments

5. Applicant's arguments filed 13 December 2002 have been fully considered and were found to be persuasive in part:

- The objection to the title is withdrawn with the corresponding recommendation in light of the reasoning presented in response to the action.

- The distinction between voice and speech recognition has been sufficiently served by the changes made to the specification.

Claim Rejections - 35 USC § 103

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Logan et al & Saylor et al

7. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan et al (U.S. Patent 5,721,827) in view of Saylor et al (U.S. Patent 6,501,832).

8. Regarding claims 1 and 11, Logan et al (Abstract) reads on the features, as:

- *Sensing a voice input command from the subscriber* (18th line).
- *Selecting at least one of a plurality of voice messages to deliver* (20th line).

- A Content Delivery Module communicating with the Input Module to select messages to deliver to the subscriber (column 1 lines 39-42) according to command (the "express request" of column 1 line 47).

While Logan et al might appear to "teach against" *initiating communication with subscribers*, he discloses the capability and describes precisely such an operation on a regular basis to notify of certain conditions (column 22 lines 60-63). Further, while it would appear to be obvious that this would be advantageous operation, Logan et al does not mention that this command dialog would occur *during the voice service session*.

Therefore, to conservatively offset against the possible ambiguity of the reference, further prior art of reference is provided with Saylor et al disclosing such an operation as the normal operation in an operational example (column 41 line 48 through column 42 line 15), reading on the feature of *a call server initiating an outbound communication to a voice service subscriber to commence a voice service session*.

- Saylor et al further discloses that the voice input command would occur *during the voice service session* (with "Jacks" part of the conversation expressing orders, from column 41 line 15 to column 42 line 7).
- It would be obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Saylor et al to the device/method of Logan et al so as to use existing facilities to specify options, indicate (dis)satisfaction and terminate operation.

9. Regarding claims 2 and 12; the claims are set forth with the same limits as claims 1 and 11, respectively. Logan et al discloses that the sound card contains an *A/D converter* (column 3 line 24).

10. Regarding claims 3 and 13; the claims are set forth with the same limits as claims 1 and 12, respectively. Logan et al discloses that the sound card contains an *A/D converter* (column 4 line 22).

11. Regarding claims 4 and 14; the claims are set forth with the same limits as claims 1 and 13, respectively. Logan et al discloses the feature of *a communicating with the input module and the content delivery module and identifying the digital voice data as at least one of a plurality of predetermined commands* (as in column 32 line 27).

12. Regarding claims 5 and 15; the claims are set forth with the same limits as claims 4 and 14, respectively. Logan et al discloses the feature of *presenting voice message content according to the digital voice data* (as in column 10 line 48).

13. Regarding claims 6 and 16; the claims are set forth with the same limits as claims 5 and 15, respectively. Logan et al discloses the feature of *at least one voice command prompt to query voice input from the subscriber* (as in column 12 line 50).

14. Regarding claims 7 and 17; the claims are set forth with the same limits as claims 6 and 16, respectively. Logan et al (column 15 line 21) discloses the feature of a *sequence of voice command prompts*.

15. Regarding claims 8 and 18; the claims are set forth with the same limits as claims 7 and 17, respectively. Logan et al (in the Abstract) discloses the feature of a *set of voice command prompts adaptively presented according to the digital voice data* (in lines (lines 6-16)).

16. Regarding claims 9 and 19; the claims are set forth with the same limits as claims 1 and 11, respectively. Logan et al (column 10 line 9) reads on the feature of *authenticating the subscriber for receipt of the voice messages*.

17. Regarding claims 10 and 20; the claims are set forth with the same limits as claims 9 and 19, respectively. Logan et al (column 10 line 13) reads on the feature that *the authentication comprises at least one of PIN verification and voice identification*.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Kikinis *et al* (U.S. Patent 5,838,252) provides the capability for uninitiated and subscriber independent notification with a server that conforms to the immediate application.

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Daniel A. Nolan at telephone (703) 305-1368 whose normal business hours are Mon, Tue, Thu & Fri, from 7 AM to 5 PM.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To, can be reached at (703) 305-4827.

The fax phone number for Technology Center 2600 is (703) 872-9314. Label informal and draft communications as "DRAFT" or "PROPOSED", & designate formal communications as "EXPEDITED PROCEDURE".

Formal response to this action may be faxed according to the above instructions, or mailed to:

Box AF
Commissioner of Patents and Trademarks
Washington, D.C. 20231

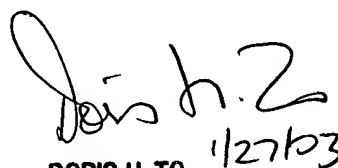
or hand-delivered to:

Crystal Park 2,
2121 Crystal Drive, Arlington, VA,
Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 Customer Service Office at telephone number (703) 306-0377.

Daniel A. Nolan
Examiner
Art Unit 2655

DAN/d
January 27, 2003


DORIS H. TO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600